



---

April 11, 2018

**Via ECFS**

Marlene H. Dortch, Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re: NOTICE OF EX PARTE  
WT Docket No. 16-335**

Dear Ms. Dortch:

On March 5, 2018 the Federal Communications Commission (“Commission”) released its decision that denied the Application for Review filed by The Rural Wireless Association, Inc. (“RWA”) in the above-referenced proceeding.<sup>1</sup> RWA had requested that the Commission review and reverse a waiver granted by the Wireless Telecommunications Bureau (“WTB” or “Bureau”) which allowed AT&T to meet its interim and final buildout requirements for its 700 MHz B Block license, call sign WQIZ358, by meeting population coverage benchmarks in lieu of the geographic coverage benchmarks required by section 27.14(g) of the Commission’s rules.<sup>2</sup> The Bureau’s Waiver Order expressly conditioned the waiver, *inter alia*, on: AT&T serving 75 percent of the population in the license area by June 13, 2019; serving 80 percent of the population in the license area by June 13, 2020; and maintaining service to 80 percent of the population through June 13, 2025. The Waiver Order also provides that should AT&T fail to meet any of these conditions, its license area would automatically be reduced to the areas that AT&T was serving as of June 13, 2017 and that the remaining areas would automatically revert to the Commission for reassignment.

---

<sup>1</sup> *In the Matter of Petition of AT&T Mobility Spectrum LLC for Waiver of Lower 700 MHz Band Interim and End-of-Term Geographic Construction Benchmarks for Alaska B Block License WQIZ358*, WT Docket No. 16-335, Memorandum Opinion and Order, FCC 18-24 (rel. March 5, 2018) (“Review Order”).

<sup>2</sup> Letter from Roger S. Noel, Chief, Mobility Division, Wireless Telecommunications Bureau, to Robert Vitanza, AT&T Services, Inc., DA 17-63, WT Docket No. 16-335, rel. January 18, 2017 (“Waiver Order”).

While the Application for Review was pending, RWA filed an *ex parte* letter pointing out that although the Waiver Order expressly requires a roll back of AT&T's license area(s) in the event that the waiver conditions are not met, the Waiver Order failed to take into account that AT&T was under no obligation to submit a construction notification that would show precisely what areas of WQIZ358's license area were actually receiving coverage and service as of the June 13, 2017 roll back date.<sup>3</sup> At the time, AT&T's last construction notification showed coverage only as of December 13, 2016, the deadline for the first buildout requirement.

Although the Commission's Review Order denied RWA's Application for Review insofar as it affirmed the Bureau's decision to permit AT&T to meet its buildout obligations using population rather than geographic benchmarks, the Commission agreed with RWA that requiring AT&T to submit shapefiles and maps showing coverage as it existed on June 13, 2017 would "ensure that interested parties and staff are able to ascertain the area of a License served as of June 13, 2017, should AT&T not fulfill a waiver condition."<sup>4</sup> Accordingly, the Commission "direct[ed] AT&T to file, within 30 days of [the] Memorandum Opinion and Order's release date, a construction notification for the License, demonstrating its geographic coverage area as of June 13, 2017."<sup>5</sup>

On April 2, 2018, AT&T submitted a construction notification for WQIZ358.<sup>6</sup> In Exhibit 1 to that filing, AT&T expressly acknowledges that the terms of the Review Order required it to submit information showing AT&T's signal coverage as it existed on June 13, 2017. In the very next paragraph, and with no explanation, AT&T ignores the Commission's directive and makes clear that the data submitted with the April 2 filing reflects maps and data reflecting coverage existing *as of the date of that filing* instead of reflecting the coverage existing 10 months earlier, on the June 13, 2017 date ordered by the Commission. The fact that AT&T has chosen to ignore the Commission's clear directive is troubling. It might reflect an expectation by AT&T that AT&T will not be able to meet its buildout obligations through 2025 as required. As such, it would simply amount to an attempt by AT&T to maximize the size of the license area that it would retain if future waiver conditions are not met. Regardless of AT&T's rationale in filing coverage data as of the wrong date, its failure to comply with the Commission's directive is unacceptable and the Commission must take immediate action to require AT&T to comply with the requirement to submit coverage information as of June 13, 2017 or declare that the waiver conditions have not been met.

---

<sup>3</sup> Ex Parte Letter dated July 17, 2017 from Caressa D. Bennet, RWA General Counsel submitted in WT Docket 16-335.

<sup>4</sup> Review Order at para. 28.

<sup>5</sup> Review Order at paras. 28, 31.

<sup>6</sup> See ULS File No. 0008157229

April 11, 2018

Page 3 of 3

Pursuant to Section 1.1206 of the FCC's Rules, this ex parte is being filed electronically with the Office of the Secretary.

Respectfully submitted,

*/s/Caressa D. Bennet*

---

Caressa D. Bennet, General Counsel  
5185 MacArthur Blvd., NW, Suite 729  
Washington, DC 20016  
(202) 857-4519  
[legal@ruralwireless.org](mailto:legal@ruralwireless.org)

cc (via email): Robert Vitanza ([Robert.vitanza@att.com](mailto:Robert.vitanza@att.com))  
Roger Noel ([Roger.noel@fcc.gov](mailto:Roger.noel@fcc.gov))  
Ajit Pai ([Ajit.Pai@fcc.gov](mailto:Ajit.Pai@fcc.gov))  
Mignon Clyburn ([Mignon.Clyburn@fcc.gov](mailto:Mignon.Clyburn@fcc.gov))  
Michael O'Rielly ([Mike.O'Rielly@fcc.gov](mailto:Mike.O'Rielly@fcc.gov))  
Brendan Carr ([Brendan.Carr@fcc.gov](mailto:Brendan.Carr@fcc.gov))  
Jessica Rosenworcel ([Jessica.Rosenworcel@fcc.gov](mailto:Jessica.Rosenworcel@fcc.gov))